

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Senate Bill 436 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 5-14-3-4, AS AMENDED BY P.L.37-2000,
- 4 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 5 JULY 1, 2001]: Sec. 4. (a) The following public records are excepted
- 6 from section 3 of this chapter and may not be disclosed by a public
- 7 agency, unless access to the records is specifically required by a state
- 8 or federal statute or is ordered by a court under the rules of discovery:
- 9 (1) Those declared confidential by state statute.
- 10 (2) Those declared confidential by rule adopted by a public
- 11 agency under specific authority to classify public records as
- 12 confidential granted to the public agency by statute.
- 13 (3) Those required to be kept confidential by federal law.
- 14 (4) Records containing trade secrets.
- 15 (5) Confidential financial information obtained, upon request,
- 16 from a person. However, this does not include information that is
- 17 filed with or received by a public agency pursuant to state statute.
- 18 (6) Information concerning research, including actual research
- 19 documents, conducted under the auspices of an institution of
- 20 higher education, including information:
- 21 (A) concerning any negotiations made with respect to the
- 22 research; and
- 23 (B) received from another party involved in the research.
- 24 (7) Grade transcripts and license examination scores obtained as

part of a licensure process.

(8) Those declared confidential by or under rules adopted by the supreme court of Indiana.

(9) Patient medical records and charts created by a provider, unless the patient gives written consent under IC 16-39.

(10) Application information declared confidential by the twenty-first century research and technology fund board under IC 4-4-5.1.

(11) A photograph, a video recording, or an audio recording of an autopsy, except as provided in IC 36-2-14-10.

(b) Except as otherwise provided by subsection (a), the following public records shall be excepted from section 3 of this chapter at the discretion of a public agency:

(1) Investigatory records of law enforcement agencies. However, certain law enforcement records must be made available for inspection and copying as provided in section 5 of this chapter.

(2) The work product of an attorney representing, pursuant to state employment or an appointment by a public agency:

(A) a public agency;

(B) the state; or

(C) an individual.

(3) Test questions, scoring keys, and other examination data used in administering a licensing examination, examination for employment, or academic examination before the examination is given or if it is to be given again.

(4) Scores of tests if the person is identified by name and has not consented to the release of his scores.

(5) The following:

(A) Records relating to negotiations between the department of commerce, the Indiana development finance authority, the film commission, the Indiana business modernization and technology corporation, or economic development commissions with industrial, research, or commercial prospects, if the records are created while negotiations are in progress.

(B) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the department of commerce, the Indiana development finance authority, the film commission, the Indiana business modernization and technology corporation, or economic development commissions to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.

(C) When disclosing a final offer under clause (B), the department of commerce shall certify that the information

- 1 being disclosed accurately and completely represents the terms
2 of the final offer.
- 3 (6) Records that are intra-agency or interagency advisory or
4 deliberative material, including material developed by a private
5 contractor under a contract with a public agency, that are
6 expressions of opinion or are of a speculative nature, and that are
7 communicated for the purpose of decision making.
- 8 (7) Diaries, journals, or other personal notes serving as the
9 functional equivalent of a diary or journal.
- 10 (8) Personnel files of public employees and files of applicants for
11 public employment, except for:
- 12 (A) the name, compensation, job title, business address,
13 business telephone number, job description, education and
14 training background, previous work experience, or dates of
15 first and last employment of present or former officers or
16 employees of the agency;
- 17 (B) information relating to the status of any formal charges
18 against the employee; and
- 19 (C) information concerning disciplinary actions in which final
20 action has been taken and that resulted in the employee being
21 disciplined or discharged.
- 22 However, all personnel file information shall be made available
23 to the affected employee or his representative. This subdivision
24 does not apply to disclosure of personnel information generally on
25 all employees or for groups of employees without the request
26 being particularized by employee name.
- 27 (9) Minutes or records of hospital medical staff meetings.
- 28 (10) Administrative or technical information that would
29 jeopardize a recordkeeping or security system.
- 30 (11) Computer programs, computer codes, computer filing
31 systems, and other software that are owned by the public agency
32 or entrusted to it and portions of electronic maps entrusted to a
33 public agency by a utility.
- 34 (12) Records specifically prepared for discussion or developed
35 during discussion in an executive session under IC 5-14-1.5-6.1.
36 However, this subdivision does not apply to that information
37 required to be available for inspection and copying under
38 subdivision (8).
- 39 (13) The work product of the legislative services agency under
40 personnel rules approved by the legislative council.
- 41 (14) The work product of individual members and the partisan
42 staffs of the general assembly.
- 43 (15) The identity of a donor of a gift made to a public agency if:
- 44 (A) the donor requires nondisclosure of his identity as a
45 condition of making the gift; or
- 46 (B) after the gift is made, the donor or a member of the donor's

1 family requests nondisclosure.

2 (16) Library or archival records:

3 (A) which can be used to identify any library patron; or

4 (B) deposited with or acquired by a library upon a condition
5 that the records be disclosed only:

6 (i) to qualified researchers;

7 (ii) after the passing of a period of years that is specified in
8 the documents under which the deposit or acquisition is
9 made; or

10 (iii) after the death of persons specified at the time of the
11 acquisition or deposit.

12 However, nothing in this subdivision shall limit or affect
13 contracts entered into by the Indiana state library pursuant to
14 IC 4-1-6-8.

15 (17) The identity of any person who contacts the bureau of motor
16 vehicles concerning the ability of a driver to operate a motor
17 vehicle safely and the medical records and evaluations made by
18 the bureau of motor vehicles staff or members of the driver
19 licensing advisory committee. However, upon written request to
20 the commissioner of the bureau of motor vehicles, the driver must
21 be given copies of the driver's medical records and evaluations
22 that concern the driver.

23 (18) School safety and security measures, plans, and systems,
24 including emergency preparedness plans developed under 511
25 IAC 6.1-2-2.5.

26 (c) Notwithstanding section 3 of this chapter, a public agency is not
27 required to create or provide copies of lists of names and addresses,
28 unless the public agency is required to publish such lists and
29 disseminate them to the public pursuant to statute. However, if a public
30 agency has created a list of names and addresses, it must permit a
31 person to inspect and make memoranda abstracts from the lists unless
32 access to the lists is prohibited by law. The following lists of names and
33 addresses may not be disclosed by public agencies to commercial
34 entities for commercial purposes and may not be used by commercial
35 entities for commercial purposes:

36 (1) A list of employees of a public agency.

37 (2) A list of persons attending conferences or meetings at a state
38 institution of higher education or of persons involved in programs
39 or activities conducted or supervised by the state institution of
40 higher education.

41 (3) A list of students who are enrolled in a public school
42 corporation if the governing body of the public school corporation
43 adopts a policy:

44 (A) prohibiting the disclosure of the list to commercial entities
45 for commercial purposes; or

46 (B) specifying the classes or categories of commercial entities

1 to which the list may not be disclosed or by which the list may
2 not be used for commercial purposes.

3 A policy adopted under subdivision (3) must be uniform and may not
4 discriminate among similarly situated commercial entities.

5 (d) Nothing contained in subsection (b) shall limit or affect the right
6 of a person to inspect and copy a public record required or directed to
7 be made by any statute or by any rule of a public agency.

8 (e) Notwithstanding any other law, a public record that is classified
9 as confidential, other than a record concerning an adoption, shall be
10 made available for inspection and copying seventy-five (75) years after
11 the creation of that record.

12 (f) Notwithstanding subsection (e) and section 7 of this chapter:

13 (1) public records subject to IC 5-15 may be destroyed only in
14 accordance with record retention schedules under IC 5-15; or

15 (2) public records not subject to IC 5-15 may be destroyed in the
16 ordinary course of business."

17 Page 2, between lines 1 and 2, begin a new paragraph and insert:

18 "SECTION 3. IC 16-39-7.1 IS ADDED TO THE INDIANA CODE
19 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
20 JULY 1, 2001]:

21 **Chapter 7.1. Autopsy Records**

22 **Sec. 1. This chapter applies to a provider (as defined in**
23 **IC 16-18-2-295).**

24 **Sec. 2. Except as provided in section 3 of this chapter, a**
25 **photograph, a video recording, or an audio recording of an autopsy**
26 **in the custody of a provider is confidential.**

27 **Sec. 3. (a) A surviving spouse may:**

28 **(1) view and copy a photograph or video recording; and**

29 **(2) listen to and copy an audio recording;**

30 **of the deceased spouse's autopsy. If there is no surviving spouse,**
31 **the surviving parents shall have access to the records under this**
32 **subsection. If there is no surviving spouse or parent, an adult child**
33 **shall have access to the records.**

34 **(b) Upon making a written request, a unit (as defined in**
35 **IC 36-1-2-23), the state, an agency of the state, the federal**
36 **government, or an agency of the federal government, while in**
37 **performance of their official duty, may:**

38 **(1) view and copy a photograph or video recording; and**

39 **(2) listen to and copy an audio recording;**

40 **of an autopsy. Unless otherwise required in the performance of**
41 **their duties, the identity of the deceased must remain confidential.**

42 **(c) The provider having custody of a photograph, a video**
43 **recording, or an audio recording of an autopsy may not permit a**
44 **person to:**

45 **(1) view and copy a photograph or video recording; and**

46 **(2) listen to and copy an audio recording;**

47 **of an autopsy without a court order.**

1 **Sec. 4. (a) A court, upon a showing of good cause, may issue an**
 2 **order authorizing a person to:**

3 **(1) view or copy a photograph or video recording; and**
 4 **(2) listen to or copy an audio recording;**
 5 **of an autopsy, and may prescribe any restrictions or stipulations**
 6 **that the court considers appropriate.**

7 **(b) In determining good cause, the court shall consider:**

8 **(1) whether the disclosure is necessary for the public**
 9 **evaluation of governmental performance;**

10 **(2) the seriousness of the intrusion into the family's right to**
 11 **privacy;**

12 **(3) whether the disclosure of the photograph, video recording,**
 13 **or audio recording is by the least intrusive means available;**
 14 **and**

15 **(4) the availability of similar information in other public**
 16 **records, regardless of form.**

17 **(c) In all cases, the viewing, copying, listening to, or other**
 18 **handling of a photograph or video or audio recording of an**
 19 **autopsy must be under the direct supervision of the provider who**
 20 **is the custodian of the record.**

21 **Sec. 5. (a) A surviving spouse shall be given:**

22 **(1) reasonable notice of the petition filed with the court to**
 23 **view or copy a photograph or video recording of an autopsy**
 24 **or a petition to listen to or copy an audio recording;**

25 **(2) a copy of the petition filed with the court to view or copy**
 26 **a photograph or video recording of an autopsy or a petition to**
 27 **listen to or copy an audio recording; and**

28 **(3) reasonable notice of the opportunity to be present and**
 29 **heard at any hearing on the matter.**

30 **(b) If there is no surviving spouse, the notice under this section**
 31 **must be given to the deceased's parents, and if the deceased has no**
 32 **living parent, the notice must be given to the adult children of the**
 33 **deceased.**

34 **Sec. 6. (a) A provider who:**

35 **(1) is the custodian of a photograph, a video recording, or an**
 36 **audio recording of an autopsy; and**

37 **(2) knowingly or intentionally violates this section;**
 38 **commits a Class D felony.**

39 **(b) A person who knowingly or intentionally violates a court**
 40 **order issued under this section commits a Class D felony.**

41 **SECTION 4. IC 36-2-14-10 IS AMENDED TO READ AS**
 42 **FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 10. (a) After viewing**
 43 **the body, hearing the evidence, and making all necessary inquiries, the**
 44 **coroner shall draw up and sign his verdict on the death under**
 45 **consideration. The coroner shall also make a written report giving an**
 46 **accurate description of the deceased person, his name if it can be**
 47 **determined, and the amount of money and other property found with**

the body. The verdict and the written report are subject to inspection and copying under IC 5-14-3-3.

(b) Except as provided in subsections (c) and (d), a photograph, video recording, or audio recording of an autopsy in the custody of a medical examiner is declared confidential for purposes of IC 5-14-3-4(a)(1).

(c) A surviving spouse may:

(1) view and copy a photograph or video recording; and

(2) listen to and copy an audio recording;

of the deceased spouse's autopsy. If there is no surviving spouse, the surviving parents shall have access to the records under this section. If there is no surviving spouse or parent, an adult child shall have access to the records.

(d) Upon making a written request, a unit (as defined in IC 36-1-2-23), the state, an agency of the state, the federal government, or an agency of the federal government, while in performance of their official duty, may:

(1) view and copy a photograph or video recording; and

(2) listen to and copy an audio recording;

of an autopsy. Unless otherwise required in the performance of their duties, the identity of the deceased must remain confidential.

(e) The coroner or the coroner's designee having custody of a photograph, a video, or an audio recording of an autopsy may not permit a person to:

(1) view or copy the photograph or video recording; and

(2) listen to or copy the audio recording;

of an autopsy without a court order.

(f) A court, upon a showing of good cause, may issue an order authorizing a person to:

(1) view or copy a photograph or video recording; and

(2) listen to or copy an audio recording;

of an autopsy, and may prescribe any restrictions or stipulations that the court considers appropriate.

(g) In determining good cause under subsection (f), the court shall consider:

(1) whether the disclosure is necessary for the public evaluation of governmental performance;

(2) the seriousness of the intrusion into the family's right to privacy;

(3) whether the disclosure of the photograph, video recording, or audio recording is by the least intrusive means available; and

(4) the availability of similar information in other public records, regardless of form.

(h) In all cases, the viewing, copying, listening to, or other handling of a photograph, video recording, or audio recording of an autopsy must be under the direct supervision of the coroner, or

the coroner's designee, who is the custodian of the record.

(i) A surviving spouse shall be given:

(1) reasonable notice of the petition filed with the court to view or copy a photograph or video recording of an autopsy or a petition to listen to or copy an audio recording;

(2) a copy of the petition filed with the court to view or copy a photograph or video recording of an autopsy or a petition to listen to or copy an audio recording; and

(3) reasonable notice of the opportunity to be present and heard at any hearing on the matter.

(j) If there is no surviving spouse, the notice under subsection (i) must be given to the deceased's parents, and if the deceased has no living parent, the notice must be given to the adult children of the deceased.

(k) A coroner or coroner's designee who:

(1) is the custodian of a photograph, a video recording, or an audio recording of an autopsy; and

(2) knowingly or intentionally violates this section;

commits a Class D felony.

(l) A person who knowingly or intentionally violates a court order issued under this section commits a Class D felony.

SECTION 5. IC 36-2-14-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 18. (a) Notwithstanding IC 5-14-3-4(b)(1), when a coroner investigates a death, the office of the coroner is required to make available for public inspection and copying the following:

(1) The name, age, address, sex, and race of the deceased.

(2) The address where the dead body was found, or if there is no address the location where the dead body was found and, if different, the address where the death occurred, or if there is no address the location where the death occurred.

(3) The name of the agency to which the death was reported and the name of the person reporting the death.

(4) The name of any public official or governmental employee present at the scene of the death and the name of the person certifying or pronouncing the death.

(5) Information regarding an autopsy (requested or performed) limited to the date, the person who performed the autopsy, where the autopsy was performed, and a conclusion as to:

(A) the probable cause of death;

(B) the probable manner of death; and

(C) the probable mechanism of death.

(6) The location to which the body was removed, the person determining the location to which the body was removed, and the authority under which the decision to remove the body was made.

(7) The records required to be filed by a coroner under section 6 of this chapter and the verdict and the written report required

1 under section 10 of this chapter.

2 (b) A county coroner or a coroner's deputy who receives an
3 investigatory record from a law enforcement agency shall treat the
4 investigatory record with the same confidentiality as the law
5 enforcement agency would treat the investigatory record.

6 (c) Notwithstanding any other provision of this section, a coroner
7 shall make available a full copy of an autopsy report, **other than a**
8 **photograph, video recording, or audio recording of the autopsy,**
9 upon the written request of the next of kin of the decedent or of an
10 insurance company investigating a claim arising from the death of the
11 individual upon whom the autopsy was performed. The insurance
12 company is prohibited from publicly disclosing any information
13 contained in the report beyond that information that may otherwise be
14 disclosed by a coroner under this section. This prohibition does not
15 apply to information disclosed in communications in conjunction with
16 the investigation, settlement, or payment of the claim."

17 Renumber all SECTIONS consecutively.

(Reference is to SB 436 as printed March 28, 2001.)

Representative Buck